



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/267,204	03/12/1999	CHRISTOPHER N. ELSBREE	ICO-001(4594	6706

21323 7590 03/19/2004

TESTA, HURWITZ & THIBEAULT, LLP  
HIGH STREET TOWER  
125 HIGH STREET  
BOSTON, MA 02110

EXAMINER

HO, THE T

ART UNIT	PAPER NUMBER
----------	--------------

2126

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/267,204

Applicant(s)

ELSBREE, CHRISTOPHER N.

Examiner

The Thanh Ho

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to the request for reconsideration filed 12/19/2003.
2. Claims 1-21 have been examined and are pending in the application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Proskauer U.S Patent No. 5,828,674,

**As to claim 1**, Proskauer discloses producing a display module which displays a graphical representation of a user interface (2022, Fig. 2) of a machine (equipment, line 24 column 3) on a display of the computer (2000, Fig. 2); associating the graphical representation with a control signal (executive 2016 to tester control 2014, Fig. 2); producing a control module (2014, Fig. 2) to examine the graphical representation and the control signal; producing a communication module to communicate the control signal (2021, Fig. 2) using the standard communication protocol for process control (lines 47-54 column 4, and lines 45-52 column 6); producing a framework module to

interconnect functionally the display, control, and communication modules (lines 36-58 column 3); and merging the modules to create the real-time interactive control (lines 28-46 column 4) and communication software objects (self contained control objects, line 37 column 3).

**As to claim 2**, Proskauer further discloses Object linking and embedding for Process Control protocol (ActiveX, line 50 column 2).

**As to claim 3**, Proskauer further discloses objects insertable using standard object insertion techniques (lines 33-39 column 4).

**As to claim 4**, Proskauer further discloses ActiveX control objects (ActiveX, line 50 column 2).

**As to claim 5**, Proskauer further discloses examining the graphical representation and the control signal periodically (lines 53-63 column 6).

**As to claim 6**, Proskauer further discloses examining when a change in the graphical representation of the user interface is detected (lines 59-65 column 3).

**As to claim 7**, Proskauer further discloses examining when a change in the associated control signal is detected (listens to the events, line 54 column 6).

**As to claim 8**, Proskauer further discloses pre-fabricated software module (2010, fig. 2).

**As to claim 9**, Proskauer further discloses a pre-fabricated software image of the graphical representation (controls from a library of ActiveX controls, lines 32-33 column 4).

**As to claim 10**, Proskauer further discloses compiling the framework module into a compiled module and linking the compiled module with the modules (lines 24-27 column 4).

**As to claim 11**, Proskauer further discloses interpreting the modules (lines 55-67 column 4).

**As to claims 12-18**, they are computer product claims of claims 1-7, respectively. Therefore, they are rejected for the same reasons as claims 1-7 above.

**As to claim 19**, it is a computer product claim of claims 8-9. Therefore, it is rejected for the same reason as claims 8-9 above.

**As to claims 20-21**, they are computer product claims of claims 10-11, respectively. Therefore, they are rejected for the same reasons as claims 10-11 above.

### ***Response to Arguments***

4. Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant argued that Proskauer does not teach ActiveX control such as: "once created, an ActiveX control can be...to build larger applications" (Remarks, third paragraph page 2). In response, ActiveX control is not claimed in the claim language.

Applicant argued that Proskauer does not teach, "a method for creating...process control" of independent claim 1 and "a computer program for creating...software objects" of independent claim 12 (Remarks, third and fourth paragraphs page 2). In response, the applicant argued languages that are disclosed in the preamble of the

independent claims. Note the discussions of the claim rejections above for the appropriate sections from the Proskauer reference that teach the steps of the claims. The reference meets the limitation as claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to The Thanh Ho whose telephone number is 703-306-5540. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Art Unit: 2126

Any response to this action should be mailed to:

Commissioner for Patents


P.O Box 1450

Alexandria, VA 22313-1450

Or fax to:

- AFTER-FINAL faxes must be signed and sent to (703) 746 – 7238
- OFFICAL faxes must be signed and sent to (703) 746 – 7239
- NON OFFICAL faxes should not be signed, please send to (703) 746 – 7240

TTH  
March 8, 2004



MENG-AL T. AN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100